

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

DAVID ALAN COUEN

### Defendant

Case No. 2:17-cr-00114-APG-CWH

## **ORDER**

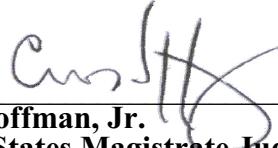
Presently before the court is pro se Defendant David Alan Cohen's Motion to Vacate Mandatory Minimum (ECF No. 72), filed May 18, 2017.

Defendant requests that in the event he is convicted, the court disregard the mandatory minimum sentences that are applicable in this case. Defendant argues that the mandatory minimum sentences violate Article One of the United States Constitution, the Eighth Amendment to the United States Constitution, and mandatory minimum sentence statutes. In particular, Defendant argues that certain sentencing enhancements related to his criminal history should not apply in this case. He requests confirmation that “the guidelines he is facing should be between the standards of anyone else facing a new charge without a past at all.” (Mot. (ECF No. 72) at 9-10.)

In essence, Defendant requests an advisory opinion regarding the sentencing guidelines that the court will apply at sentencing. Given that this case has not yet proceeded to trial and that Defendant has not been convicted, this request is premature. The court therefore declines to issue a statement of its interpretation of the law that may or may not be applied given the outcome of the trial in this matter. To the extent it is helpful to the Defendant in preparing for trial, he may file a motion requesting an early presentence investigation report.

1 IT IS THEREFORE ORDERED that Defendant David Alan Cohen's Motion to Vacate  
2 Mandatory Minimum (ECF No. 72) is DENIED without prejudice.

3 DATED: May 30, 2017

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5 **C.W. Hoffman, Jr.**  
6 **United States Magistrate Judge**